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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

MDL No. 3084 CRB

**NOTICE OF MOTION AND MOTION
TO WITHDRAW AS COUNSEL FOR
PLAINTIFF JANE DOE EB 22**

This Document Relates to:

JURY TRIAL DEMANDED

*JANE DOE EB 22 v. UBER TECHNOLOGIES,
INC., et al.*
Case No. 3:24-cv-05245

Judge: Hon. Charles R. Breyer
Date: March 7, 2025
Time: 10:00 a.m.
Courtroom: 6 – 17th Floor; Videoconference

NOTICE OF MOTION & MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD, PLEASE TAKE NOTICE that
on Friday, March 7, 2025 at 10:00 a.m. by videoconference (accessible at
<https://canduscourts.zoomgov.com/j/1611472837?pwd=cy81NUdINWZmeEpFUjlHRXM3djZ5Q>
[T09](#)), before the Honorable Charles R. Breyer, in Courtroom 6 of this Court, located at 450 Golden
Gate Avenue, San Francisco, CA 94102, Estey & Bomberger LLP (E&B), counsel of record for

1 Plaintiff Jane Doe EB 22 (“Plaintiff”), moves this Court for an order permitting its withdrawal as
2 counsel for Plaintiff.

3 This Motion is made pursuant to Local Rule 11-5(a) and California Rules of Professional
4 Conduct 1.16(b)(4) and 1.16(d). This Notice of Motion & Motion is based on the below
5 Memorandum in Support and the accompanying Declaration of Angela J. Nehmens, filed herewith
6 as Exhibit A. A Proposed Order is attached as Exhibit B.

7 **MEMORANDUM IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL**

8 Pursuant to Local Civil Rule 11-5(a) and California Rules of Professional Conduct
9 1.16(b)(4) and 1.16(d), E&B submits this Memorandum of Law in support of its Motion to
10 Withdraw as Counsel for Plaintiff Jane Doe EB 22. E&B respectfully requests the Court grant the
11 Motion.

12 **STATEMENT OF FACTS**

13 Plaintiff Jane Doe EB 22 is currently represented by E&B. Plaintiff’s claims were filed in
14 the United States District Court for the Northern District of California as Case No. 3:24-cv-05245
15 on August 16, 2024. Plaintiff’s case was consolidated into the multidistrict litigation *In re: Uber*
16 *Technologies, Inc. Passenger Sexual Assault Litigation*, Case No. 3:23-md-03084, on August 16,
17 2024.

18 E&B has been unable to reach Plaintiff since August 14, 2023. *See* Ex. A, Declaration of
19 Angela J. Nehmens (“Nehmens Decl.”) at ¶ 2. E&B has made numerous attempts to contact
20 Plaintiff via phone, email, and text. Nehmens Decl. ¶ 4(a)-(d). E&B repeatedly explained why
21 Plaintiff’s participation was necessary to prosecute this case. *Id.* Since June 6, 2024, E&B has also
22 sent four letters via US Mail and email noting discovery deadlines, explaining the risk of dismissal,
23 and explaining that E&B could not continue to represent Plaintiff without her input. Nehmens Decl.
24 ¶ 4(b)-(d). During this time, E&B continued to meet and confer with opposing counsel, seeking
25 extensions for discovery deadlines to protect Plaintiff’s interests. Nehmens Decl. ¶ 5.

26 On October 29, 2024, E&B formally advised Plaintiff by email and Certified Mail that it
27 would be unable to move forward with her case and that Uber would move to dismiss her case if
28 her Plaintiff Fact Sheet (PFS) was unable to be completed Nehmens Decl. ¶ 4(c). E&B also advised

1 Uber of its intent to withdraw. Nehmens Decl. ¶ 7. To date, Plaintiff has not contacted E&B, has
2 not agreed to or informed E&B of her desire to voluntarily dismiss her case, and has not informed
3 E&B that alternate counsel has been retained. Nehmens Decl. ¶ 6. E&B thus remains counsel of
4 record for Plaintiff but also remains unable to reach her.

5 ARGUMENT

6 E&B should be permitted to withdraw as counsel for Plaintiff. An attorney may
7 withdraw from a case by obtaining an order from the court after reasonable advance written
8 notice has been provided to the client and to all other parties. Civ. L.R. 11-5(a). Attorneys
9 practicing before this Court are also required to adhere to the California Rules of Professional
10 Conduct. Civ. L.R. 11-4(a)(1). Under those rules, a “lawyer shall not terminate a representation
11 until the lawyer has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights
12 of the client.” Cal. Rules. Prof. Conduct 1.16(d)(1).

13 E&B has given Plaintiff appropriate advance notice of requirements to continue her case
14 beginning on June 6, 2024 and culminating with final notice on December 13, 2024. Nehmens Decl.
15 ¶ 4(b)-(d). E&B has also given advance notice to Uber. Nehmens Decl. ¶ 7. E&B has taken all steps
16 possible to avoid prejudice to Plaintiff. Nehmens Decl. ¶ 8. In multiple letters, calls, emails, and
17 texts, E&B explained the consequences of failing to contact the firm or to meet discovery deadlines.
18 Nehmens Decl. ¶ 4. At no time has Plaintiff replied to our communications. Nehmens Decl. ¶ 6.
19 E&B also continued negotiating discovery extensions with Uber for the past two months to protect
20 Plaintiff’s case from dismissal. Nehmens Decl. ¶ 5. E&B has thus taken all reasonable steps to
21 avoid foreseeable prejudice to the Plaintiff. Nehmens Decl. ¶ 8.

22 Under California Rule of Professional Conduct 1.16(b)(4), a lawyer may withdraw from a
23 case if “the client . . . renders it unreasonably difficult for the lawyer to carry out the representation
24 effectively.” Here, Plaintiff has failed to communicate with E&B and failed to provide information
25 required to prosecute her case. Nehmens Decl. ¶¶ 2-3. E&B has been unable to meet discovery
26 deadlines in this case because, for example, the Plaintiff Fact Sheet requires Plaintiff’s input and
27 verification. *See* Nehmens Decl. ¶ 3. Plaintiff’s conduct thus falls into the express terms of Rule
28 1.16 regarding permissive withdrawal.

1 Because this motion is not accompanied by a substitution of counsel or an agreement by
2 Plaintiff to proceed pro se, E&B agrees to the condition imposed by Local Rule 11-5(b) to serve
3 Plaintiffs with all papers in this matter, unless or until Plaintiff appears pro se, other counsel
4 appears on Plaintiff's behalf, or upon further order of the Court. *See* Nehmens Decl. ¶ 9.

5 **CONCLUSION**

6 E&B respectfully requests that the Court enter an order terminating its representation of
7 Plaintiff Jane Doe EB 22 and allowing Plaintiff 30 days to retain new counsel.

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10 DATED: January 29, 2025

Respectfully Submitted,
ESTEY & BOMBERGER, LLP

12 /s/ Angela J. Nehmens, Esq.
13 Stephen J. Estey
14 Angela J. Nehmens

15 **Attorneys for Plaintiff**
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CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2025, I electronically filed the above document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

By: /s/Angela J. Nehmens